

## **REMARKS**

In the Office Action of February 7, 2005, the Examiner rejected claims 1 through 13 under 35 U.S.C. § 102 based on US Patent 6,016,483 to Rickard. Applicants respectfully traverse the rejection and request reconsideration.

### **I. The Rickard Reference.**

The Rickard reference relied on by the Examiner is described in Applicant's specification on page 3, line 27 to page 4, line 9. As described therein, Rickard generally relates to an automated opening method using a two-stage process. During the first stage, a set of opening prices is determined, and during the second stage, a residual balance of non-executed public orders is assigned among participating market makers. Rickard's pricing method includes balancing the desire to have consistent implied volatilities across the series with the desire to optimize the volume with respect to the supply and demand of each individual series. Rickard is silent with respect to the timing of the opening procedure, and does not address the problems associated with orders or quotes submitted after a proposed opening price (or volatilities) is determined.

### **II. The Claimed Invention**

The specification describes a method using time intervals to randomly terminate the acceptance of new orders and quotes. Once an opening value for the underlying security has been received, the expected opening prices (EOP) may be determined. Then, additional quotes may be received during a second time period. This time period may be used, for example, to allow market makers to alter their quotes based on the EOP. Any changes, or new quotes and orders, are used to update the EOP. Then, the acceptance of additional quotes and orders is randomly terminated, resulting in the quotes and orders

not being considered in updating the opening prices. The opening then occurs based on the updated opening prices.

### **III. Response to the Rejection**

In the Office Action mailed February 7, 2005, the Examiner rejected claims 1 and 8. The Examiner characterized Rickard as publishing an expected opening price and then "receiving additional quotes and orders ... during a second time period..." as set forth in claims 1, 8, and 13. The Examiner cited to Figure 2 of Rickard, and column 8, lines 35-42 and 27-33. Applicants have reviewed the Rickard reference and find no teaching that additional quotes and orders are received during a second time period after an expected opening price is published. Figure 2 merely indicates that step 1 of Rickard provides a set of prices for each series, as shown in element 106. Column 8 describes the second stage of Rickard where contracts are assigned to market makers (which occurs after the opening price is finalized).

The Examiner also cites to Column 6, lines 5-30 for the proposition that Rickard "randomly terminates[] the second time period" to open trading on the series as set forth in claims 1, 8, and 13. But Column 6, lines 5-30 merely describes the advantages of Rickard's method, without any reference to the timing of the opening to the receipt of quotes and orders, and contains no mention of randomly terminating *any* event associated with the opening.

The prior art Rickard patent fails to disclose at least these two aspects of the independent claims. As such, the Rickard reference fails to anticipate the claimed invention set forth in independent claims 1, 8, and 13.

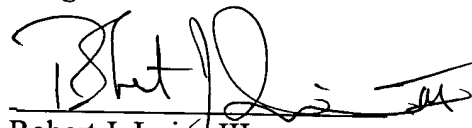
#### **IV. Conclusion**

In light of the foregoing, applicants submit that claims 1 through 13 are allowable, and notice to that affect is hereby requested. The Examiner is invited to telephone the undersigned at 312/913-3305 if further dialog would help move the present application to issuance.

Respectfully submitted,  
**McDonnell Boehnen Hulbert &  
Berghoff**

Date: May 9, 2005

By :

  
Robert J. Irvine III  
Reg. No. 41,865